

### **REMARKS**

These remarks are responsive to the Non-Final Office Action, dated February 20, 2007. Claims 4-6 and 10 are pending. Claims 4 and 10 are independent. Claims 4 and 6 have been amended to expedite prosecution of this application to allowance. Claims 1-3, 7-9 and 11 have been canceled without prejudice or disclaimer to the subject matter. Applicant reserves the right to pursue such claims, as well as additional claims supported by the disclosure of the subject application at a later time.

#### **Restriction Requirement**

The Examiner alleges that original claims 1-11 are directed to three separate inventions. In particular, the Examiner alleges that the original claims can be broken down into the following groups:

Group I.        Claims 1-3 and 9, drawn to a fuel chamber for a fuel cell system.

Group II.       Claims 4-6 and 10, drawn to a method for delivering fuel.

Group III.      Claims 7, 8 and 11, drawn to a method for delivering liquid.

In a phone conversation between the Examiner and Applicant's representative, Group II was provisionally selected, with traverse, to examine for which the present Office Action was issued.

While not acknowledging that the claims are directed to different inventions, in an effort to speed up prosecution, Applicant hereby confirms the election of the claims of

Group II (claims 4-6 and 10), without traverse. Accordingly, the remainder of the original claims have now been canceled.

35 U.S.C. §112

In the February 20, 2004 Office Action, the Examiner rejected claims 4-6 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner stated that the claims appear to “improperly broaden the claim”. Applicant amended claim 6 to recite that “the destination area is a mixing chamber in the fuel cell”. Applicant respectfully submits that the fuel is driven from the fuel chamber to the destination area within the fuel cell, as recited in claims 4-6. Thus, this rejection is now moot. The Examiner is respectfully requested to reconsider and withdraw his rejection.

35 U.S.C. §102

In the February 20, 2004 Office Action, the Examiner rejected claims 4, 5 and 10 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,506,513 to Yonetsu et al. (“Yonetsu”). This rejection is respectfully traversed.

In the Office Action, the Examiner stated that Yonetsu “teaches a fuel cell system comprising a fuel cell body including a unit cell having an electromotive section and a liquid fuel tank for storing a liquid fuel that is to be supplied to the fuel cell body... The mechanism prevents a negative pressure by positively introducing a gas component generated in the fuel cell into the liquid fuel tank (6: 17-40)... A pressure control valve was mounted to the tube so as to make it possible to release the pressure though the valve over a predetermined level of pressure (16: 25-35)”.

Claim 4 of the present invention recites, *inter alia*, allowing gaseous product from an anode chamber of a fuel cell system to be introduced to the fuel chamber, releasing the pressure in the fuel chamber to the destination area, and driving fuel contained in the fuel chamber to the destination area as a result of the release of pressure. Independent claim 10 recites the same patentable features.

Yonetsu discusses a liquid fuel cell adapted for miniaturization and a tank for housing a liquid fuel used for the fuel cell (Yonetsu, Abstract). The liquid fuel tank is provided with a pressure adjusting mechanism for introducing a required amount of the liquid fuel from a liquid outlet port into the unit cell (Yonetsu, Abstract). A fine tube is opened within the liquid fuel tank and opened on the other end for collecting carbon dioxide gas generated on the side of the node of the fuel cell body. A pressure control valve was mounted to the tube so as to make it possible to release the pressure through the valve over a predetermined level of pressure (Yonetsu, Column 16, lines 25-35).

Applicant submits that this is substantially different than the present application's claimed method of delivering fuel from a fuel chamber to a fuel cell by allowing gaseous product from an anode chamber of a fuel cell system to be introduced to the fuel chamber, and releasing the pressure in the fuel chamber to the destination area to drive fuel contained in the fuel chamber to the destination area. Applicant submits that Yonetsu does not teach, suggest or disclose subject matter relating to driving fluids between chambers of a fuel cell with gaseous effluent from an anode chamber. In contrast, Yonetsu's discusses releasing the pressure of a tube, wherein the tube connects a liquid fuel tank and a fuel cell body. As such, Yonetsu fails to disclose all elements of claim 4, and thus, Applicant respectfully submits that claim 4 is in condition for

allowance. Accordingly, the Examiner is requested to reconsider and withdraw his rejection of claim 4.

Applicant also submits that independent claim 10 is also not anticipated by Yonetsu for at least the reasons stated above with respect to claim 4. Thus, the rejection of claim 10 is respectfully traversed. The Examiner is requested to reconsider and withdraw his rejection of claim 10.

Claims 5 and 6, being dependent from the independent claim 4, are also considered patentable for at least the reasons stated above with respect to claim 4. Thus, the rejections of these claims are respectfully traversed and the Examiner is requested to reconsider and withdraw these rejections.

35 U.S.C. §103

In the February 20, 2007 Office Action, the Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Yonetsu. This rejection is respectfully traversed.

In the Office Action, the Examiner stated that Yonetsu “does not explicitly state the fuel is supplied to a mixing chamber”. The Examiner stated one of ordinary skill in the art at the time of the invention would have known the pressure adjusting mechanism could have been used to deliver fuel from the fuel tank to any other chamber having a lower pressure than that of the fuel tank (Office Action, page 6).

Applicant respectfully disagrees. The Applicant submits that the pressure adjusting mechanism of Yonetsu is not sufficient to establish a prima facie case of obviousness, since there is no suggestion in Yonetsu for the desirability of the

combination (*see* MPEP 2143.01). The Examiner has not provided any details as to the location in Yonetsu for such a suggestion to support the Examiner's proposition.

Moreover, Applicant respectfully submits that the Examiner is relying on impermissible hindsight to establish the alleged obviousness (see MPEP 2142) -- the legal conclusion of obviousness must be gleaned from facts contained in the prior art, not Applicant's disclosure.

Furthermore, Yonetsu fails to disclose, teach or suggest all elements of claim 6 for at least the reasons stated above with regard to claim 4. Specifically, Applicant respectfully submits that Yonetsu fails to teach, suggest or disclose subject matter relating to driving fluids between chambers of a fuel cell with gaseous effluent from an anode chamber. In contrast, Yonetsu's discusses releasing the pressure of a tube, wherein the tube connects a liquid fuel tank and a fuel cell body. Thus, this rejection is respectfully traversed. The Examiner is requested to reconsider and withdraw the rejection of claim 6.

No new matter has been added.

**CONCLUSION**

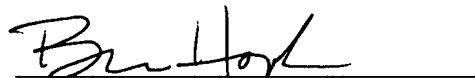
In view of the foregoing remarks, Applicant submits that the issues raised in the Office Action of February 20, 2007 have all been addressed, and that the present application is condition for allowance. Accordingly, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

It is believed that no additional fees are due, except those with respect to the extension of time. In the event that it is determined that any additional fees are due in such respects, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. **50-0311**, Customer No. **35437**, Ref. No. 21535-007 CON.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 692-6803. All correspondence should continue to be directed to our address given below.

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Respectfully submitted,



Brian P. Hopkins, Reg. No. 42,669  
Attorney for Applicant  
Mintz Levin Cohn Ferris Glovsky  
and Popeo PC  
The Chrysler Center  
666 Third Avenue, 24TH Floor  
New York, New York 10017  
Tel. No.: (212) 935-3000  
Fax No.: (212) 983-3115  
**Customer No. 35437**